



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 9<sup>TH</sup> DAY OF SEPTEMBER, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM**

**CRIMINAL PETITION NO. 5361 OF 2025**

**BETWEEN:**

1. SMT. ROOPA DIVAKAR MOUDGIL, IPS  
W/O. MUNISH MOUDGIL  
AGED ABOUT 49 YEARS  
RESIDING AT F-1704  
MANTRI LITHOS  
INSIDE MANYATHA TECH PARK  
BENGALURU-560 045.  
PRESENTLY RESIDING AT  
FLAT NO 5202, EMBASSY LAKE  
TERRACES APARTMENT, BELLARI ROAD  
HEBBAL, BENGALURU-560 024.

...PETITIONER

(BY SRI. D.R. RAVI SHANKAR, SENIOR COUNSEL FOR  
SRI. JAYSHAM JAYASIMHA RAO, ADVOCATE)

**AND:**

1. SMT. ROHINI SINDHURI, IAS  
W/O. G. SUDHIR REDDY  
AGED ABOUT 40 YEARS  
RESIDING AT NO. 42, 5TH CROSS  
KALIAMMAN TEMPLE ROAD  
T. DASARAHALLI, BENGALURU-560 057.  
PRESENTLY RESIDING AT  
ARAVINDAM, PLOT NO. 30  
CENTURY ARTIZAN, NITTE  
MEENAKSHI COLLEGE ROAD  
BSF CAMPUS





YELAHANKA  
BENGALURU-560 064.

...RESPONDENT

(BY SRI. C.V. NAGESH, SENIOR COUNSEL FOR  
SRI. RAHUL DEV S. DESHAMUDRE, ADVOCATE)

THIS CRL.P FILED U/S 482 CR.PC (FILED U/S 528 BNSS)  
SET ASIDE THE IMPUGNED ORDER DATED 02.04.2025 PASSED  
BY THE LEARNED 5TH ADDL. CJM, BENGALURU IN  
C.C.NO.7870/2023 AT ANNEXURE-A AND ETC.

THIS PETITION, COMING ON FOR DICTATING ORDERS,  
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

**ORAL ORDER**

The present petition is filed by the accused challenging the order dated 02.04.2025 passed by the learned Magistrate in C.C.No.7870/2023, whereby the application filed by the petitioner under Section 91 of the Code of Criminal Procedure, 1973, came to be rejected. By way of the said application, the petitioner had sought a direction to secure the detailed records, including the Call Data Records (CDRs), pertaining to SIM card of mobile phone number 6362073481, which, according to the petitioner, had been used by the respondent-complainant



to to discreetly converse with the petitioner's husband and SIM card of mobile phone number 9900018233, which is admittedly being used by the complainant. The learned Magistrate, however, rejected the application holding that the securing of such CDRs was not relevant for adjudication of the controversy between the parties.

2. The petitioner, being aggrieved, has approached this Court assailing the impugned order.

3. It is the case of the petitioner that the amendments carried out in the complaint itself disclose inconsistencies. The respondent-complainant, in the complaint, had specifically alleged that she came across a Facebook post on 18.02.2023 at her residence and again on 19.02.2023 at her office situated in Chamrajpet, Bengaluru. The petitioner points out that 18.02.2023 fell on a Saturday and was a declared public holiday on account of Mahashivratri, while 19.02.2023 was a Sunday, being a weekly holiday. Therefore, the respondent's claim



of having been at her office on 19.02.2023 is ex facie incorrect. Realising the inconsistency and in an attempt to rectify the same, the respondent, during her examination-in-chief, altered her version and deposed that she was, in fact, at her office on 18.02.2023 when she allegedly came across the said Facebook post. The petitioner contends that such self-contradiction goes to the root of the matter and that she has, during the course of cross-examination, posed specific questions to the complainant highlighting these contradictions.

4. It is further contended that the petitioner's case rests on two principal limbs. Firstly, the petitioner submits that the private complaint was deliberately lodged before a particular Court, which amounts to forum shopping and is an abuse of process. Secondly, it is urged that during the course of cross-examination, the complainant herself admitted that she used to communicate with the petitioner's husband over phone. However, when questioned further, the complainant pleaded ignorance by



stating that she does not remember the phone number of the petitioner's husband. According to the petitioner, this admission itself necessitated summoning of the CDRs in order to expose the falsity of the complainant's deposition.

5. In this background, the petitioner invoked Section 91 of the Cr.P.C. and sought production of the CDRs of mobile phone number 6362073481 as well as mobile phone number 9900018233, which is admittedly being used by the complainant. The specific purpose of calling for the CDRs is to demonstrate that the respondent-complainant was in regular touch with the petitioner's husband, who happens to be one amongst three IAS officers, and thereby to disprove the complainant's false stance. The petitioner further sought a direction to the concerned telecom service providers for preservation of the CDRs, having regard to the fact that such records are automatically deleted after a prescribed period. The learned Magistrate, however, by the impugned



order, has rejected the application without due appreciation of these aspects.

6. Learned Senior Counsel, reiterating the grounds urged, would contend that the Call Data Records (CDRs) sought by the petitioner are highly relevant and material to the defence. It is submitted that the CDRs would clearly demonstrate that the complainant was in constant touch with the husband of the accused even subsequent to the filing of the complaint. More particularly, the CDRs of mobile number 6362073481 would not only disclose the call transactions but would also reflect the location of the user of the said number. A comparative analysis of the location details would reveal that the location of the said number consistently tallied with the location of the petitioner's husband, thereby establishing that it was, in fact, the petitioner's husband who was using the said SIM.

7. It is further submitted that the right to a fair trial is a facet of Article 21 of the Constitution of India, and



the accused cannot be denied a fair opportunity to set up her defence. The defence in a criminal trial has to be laid from the very inception, and the accused cannot be compelled to wait until the prosecution completes its evidence to demonstrate the falsity of the allegations. In this context, reliance is placed on the judgments of the Hon'ble Supreme Court in ***Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal<sup>1</sup>, Suresh Kalmadi v. CBI<sup>2</sup>***, and ***Chotha Ram v. State of Rajasthan<sup>3</sup>***, wherein it has been emphasized that evidence such as electronic records and CDRs are not only admissible but can be decisive in ensuring a fair adjudication.

8. It is thus contended that the learned Magistrate, while rejecting the application under Section 91 of the Cr.P.C., has failed to appreciate the relevance and necessity of the CDRs. The impugned order merely records that the CDRs are not relevant, but conspicuously

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<sup>1</sup> (2020) 7 SCC 1

<sup>2</sup> 2015 SCC Online Del 9639

<sup>3</sup> S.B. Criminal Misc(Pet.) No.3672/2023



does not assign any cogent reasons as to why they are not relevant to the facts of the present case. Such a cryptic and non-speaking order reflects non-application of mind. Learned Senior Counsel would conclude his submissions by asserting that the fundamental object of every trial is to unearth the truth, and the trial Court, in summarily rejecting the petitioner's application, has failed to address this crucial aspect.

9. Per contra, learned Senior Counsel appearing for the respondent has vehemently opposed the petition and contended that the respondent had instituted a private complaint under Section 200 of the Code of Criminal Procedure, 1973, which came to be registered in C.C.No.7870/2023, alleging that the petitioner-accused had published multiple defamatory statements against her on her Facebook account. Referring to the judgment rendered by this Court in Criminal Petition No.4575/2023, learned Senior Counsel submits that the petitioner had earlier sought quashing of the said proceedings, which was





negated by this Court by order dated 21.08.2023. The said order was assailed before the Hon'ble Supreme Court in SLP No.43479/2023, wherein the Hon'ble Apex Court, while declining to interfere, directed the petitioner-accused to first delete all defamatory posts and to file an affidavit of compliance on or before 15.12.2023. Ultimately, the said petition was dismissed by the Hon'ble Supreme Court.

10. It is further submitted that the petitioner-accused has been deliberately dragging on the proceedings before the trial Court. In fact, the learned Magistrate, noticing the conduct of the petitioner, was constrained to close the evidence of the complainant by recording "no further cross-examination." The said order was challenged by the petitioner before this Court in Criminal Petition No.12648/2023, wherein this Court, by taking a lenient view, granted the petitioner one final opportunity to cross-examine the complainant, subject to payment of costs of Rs.10,000/-. Learned Senior Counsel



therefore contends that the present petition is yet another attempt on the part of the petitioner to protract the trial and avoid facing the legal consequences of her acts.

11. Learned Senior Counsel for the respondent would further contend that the application filed under Section 91 of the Cr.P.C. is wholly misconceived, irrelevant to the charge framed against the petitioner, and is yet another calculated attempt to protract the proceedings. Adverting to the defamatory Facebook posts admittedly published on three specific dates, he would vehemently argue that the question of territorial jurisdiction has already been accepted and never challenged either before this Court while seeking quashing of the proceedings or before the Hon'ble Supreme Court.

12. While seriously disputing any connection of the complainant with mobile number 6362073481, learned Senior Counsel would urge that the prayer for summoning CDRs based purely on conjecture is impermissible and



amounts to an unwarranted intrusion into the right to privacy as recognized by the Hon'ble Apex Court in ***Justice K.S. Puttaswamy v. Union of India***<sup>4</sup>. He would further emphasize that CDRs contain only call metadata and not the content of conversations, and the limited object of the petitioner appears to be only to establish that certain calls were made to her spouse. The lawful course available to the petitioner, therefore, is to obtain the CDRs of her own spouse and to examine him as a defence witness, rather than seeking to invade the complainant's privacy by calling for her private data for a period extending over two years, which is wholly unrelated to the dates of the alleged defamatory publications.

13. Learned Senior Counsel would thus submit that the CDRs now sought to be secured by the accused have no nexus whatsoever to the defamatory posts made on Facebook, a platform that is accessible worldwide. In fact, the petitioner herself has not disputed the publication of

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<sup>4</sup> (2017) 10 SCC 1



the said posts and has even filed an affidavit of compliance before the Hon'ble Supreme Court confirming their deletion. In this backdrop, it is urged that the attempt to summon CDRs is neither desirable nor necessary for the purpose of trial. The learned Magistrate has rightly taken note of the limited scope of admissibility of CDRs in the context of the alleged defamatory posts made from the personal account of the accused and has therefore correctly rejected the application. Hence, learned Senior Counsel prays for dismissal of the present petition.

14. This Court, having heard the learned Senior Counsel appearing on both sides, has taken note of the private complaint lodged by the respondent-complainant. The Court has also given its anxious consideration to the judgment rendered by this Court in the earlier round of litigation bearing CrI.P.No.4575/2023, wherein the petitioner-accused had sought quashing of the proceedings on two distinct grounds. Firstly, it was urged that the alleged statements were made in good faith and



were therefore protected under the Exceptions to Section 499 of the Indian Penal Code. Secondly, it was contended that in the absence of sanction, the proceedings stood vitiated inasmuch as the petitioner enjoyed protection under Section 197 of the Code of Criminal Procedure, 1973.

15. This Court deems it appropriate to extract paragraphs 11 to 15 of the said judgment, which are relevant for the present controversy. The same reads as under:

*"11. If the statements posted on a private account as well as the statements made before the print media are examined, I am more than satisfied that petitioner/accused is bound to face a criminal trial. The question as to whether the posts made on a face book account and the statements made before the print media fall under exceptions is a matter of trial. In order to claim good faith, the accused must show that before making the alleged imputation, she has made enquiry with due care and attention. In order to establish good faith and bonafides, it has to be seen that the circumstances*



*under which imputations were made and published. It is only during full-fledged trial, it can be ascertained as to whether imputations were made with any malice. It is only in an full-fledged trial, it can be assessed as to whether there are reasons to accept that petitioner had taken care and caution and as to whether there is preponderance of probabilities that petitioner acted in good faith.*

*12. The above culled out portions which are part of a prima facie material which were produced by the respondent/complainant by recording sworn statement prima facie demonstrates that these imputations are obviously not made in discharge of her duty. It is equally trite law that burden is always on the accused to show that his/her case comes under any of the exceptions and that he/she is not liable for defamation. Therefore, having taken cognizance of prima facie material, this Court at this stage is not inclined to grant any reliefs as claimed in the captioned petition.*

**My findings on Sanction:-**

*13. Now coming to sanction, the above culled out portion does not indicate that these posts and statements are duties relating to a public servant. The posts and statements given to the*



*print media prima facie not being part of her official duties, I am of the view that she is not entitled for protection under Section 197 of Cr.P.C. The acts complained by the respondent/complainant by filing a private complaint prima facie do not indicate that these allegations hinge on the official duties as a public servant and therefore, petitioner cannot claim protection under Section 197 of Cr.P.C. These statements made do not fall within the domain of her assigned duties which a public servant is required to discharge or perform. The culled out portions clearly do not demonstrate that the acts done by the petitioner which are indicated in the private complaint are obviously not done in the course of her service and therefore, Section 197 of Cr.P.C. does not extend its protective cover insofar as the above culled out portions are concerned. The scope of operation of Section 197 of Cr.P.C. is restricted to only those acts or omissions which are done by a public servant in discharge of official duty.*

14. The Hon'ble Apex Court upholding the precedent of **Rajib Ranjan vs. R.Vijayakumar**<sup>5</sup> held that if a public servant is involved in any acts which do not fall within the domain of duties assigned to her/him, such misdemeanor conducted

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<sup>5</sup> (2015) 1 SCC 513



*shall not be treated as an act of his/her official duties and no protection under Section 197 could be attracted. The Doctrine of state humanity covers all the acts performed by a public servant in exercise of function of the Government and not where acts are done by the public servant for her or his own benefit or pleasure and may be under the power of authority, such acts will not fall under the immunity principles.*

*15. In the light of discussion made supra, I am of the view that this is not a fit case which would warrant interference at the hands of this Court. If respondent/complainant has placed on record sufficient prima facie materials, petitioner is bound to face the proceedings."*

16. On a closer examination of the observations made therein, it becomes clear that this Court had declined to quash the proceedings in C.C.No.7870/2023 holding that the materials placed on record by the complainant did disclose a *prima facie* case warranting trial, and that the petitioner was liable to face the same.





17. The records further reveal that the petitioner herein had assailed the aforesaid order of this Court before the Hon'ble Apex Court. However, as evident from Annexure-R3 to the statement of objections filed by the complainant, the petitioner chose to withdraw the appeal before the Hon'ble Apex Court with liberty to agitate all issues raised therein before the trial court.

18. The petitioner is now facing proceedings alleging commission of an offence punishable under Section 500 of the Indian Penal Code. The sum and substance of the private complaint is that the petitioner, through her Facebook account, published several posts making imputations against the complainant. Amongst them are posts indirectly suggesting that no IAS officer would stoop to a settlement with an MLA or politician in discharge of official duties. The petitioner has further insinuated that the complainant was responsible for an IPS officer ending his life after waiting endlessly at the behest of the complainant. In addition, the petitioner is alleged to



have uploaded photographs portraying the complainant in a derogatory light, giving them an explicit tenor with negative connotations.

19. The complaint also asserts that the petitioner shared screenshots of WhatsApp chat conversations which were subsequently deleted, and that the deleted messages contained nude photographs allegedly sent by the complainant herself. It is further alleged that the petitioner published posts insinuating that the complainant had constructed a massive bungalow at Jalahalli, and also made statements before the media portraying the complainant as the cause for the breakdown of the petitioner's marriage, branding her as a "cancer" who entices others and claiming that she had been influencing the petitioner's husband for the last eight years. These posts, according to the complainant, were widely circulated in print and electronic media and are per se defamatory.



20. On a careful consideration of the rival contentions and the materials on record, this Court is of the view that the relief sought by the petitioner–accused under Section 91 of the Cr.P.C. is wholly misconceived and bears no relevancy to the charge that is pending adjudication in C.C.No.7870/2023. The core allegations in the complaint are that the petitioner published a series of Facebook posts imputing misconduct to the complainant in her official capacity, attributing responsibility for the tragic death of an IPS officer, and further circulating photographs and messages in a manner projecting the complainant in an explicit and derogatory light. These allegations, if proved, would squarely fall within the ambit of defamation as defined under Section 499 of the IPC and punishable under Section 500 thereof.

21. In contrast, the production of Call Data Records sought by the petitioner, extending over a period of two years, neither addresses nor has any nexus with the question of whether the Facebook posts made by the



petitioner are defamatory *per se*. The attempt to summon such records, as rightly pointed out by learned counsel for the complainant, is nothing but an endeavour to divert the proceedings and to protract the trial. Even assuming that the petitioner intends to demonstrate the complainant's alleged contact with her husband, the appropriate course available to the petitioner is to summon her husband's records and examine him as a defence witness, rather than seeking to intrude into the complainant's private data which is unconnected with the issues in controversy.

22. Therefore, this Court is of the considered opinion that the relief sought under Section 91 Cr.P.C. is irrelevant to the adjudication of the offence alleged under Section 500 IPC, and the learned Magistrate was fully justified in rejecting the application.

23. This Court is also mindful of the constitutional protection guaranteed to every individual under Article 21 of the Constitution of India, as expounded by the Hon'ble



Supreme Court in ***Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors.***, (supra), wherein the right to privacy has been unequivocally recognized as a fundamental right. Call Data Records, though limited to metadata, nonetheless reveal sensitive information regarding the location, movement, and communication patterns of an individual and thus fall squarely within the protective ambit of informational privacy. Permitting the petitioner to summon and access the complainant's CDRs for a period of two years, without any nexus to the allegations of defamation under Section 500 IPC, would amount to an unwarranted intrusion into the complainant's fundamental right to privacy. Such an intrusion cannot be countenanced, particularly when alternate lawful means are available to the petitioner to set up her defence.

24. As rightly contended by the learned Senior Counsel for the complainant, if the petitioner truly intended to demonstrate any alleged nexus between the complainant and her husband, nothing prevented her from



securing the CDRs of her own husband and examining him as a defence witness. On this count, this Court finds considerable force in the submission made on behalf of the complainant.

25. The records further disclose that after withdrawal of the appeal before the Hon'ble Apex Court, the petitioner failed to avail the opportunity to cross-examine the complainant. Consequently, the learned Magistrate was constrained to record that there was no further cross-examination on behalf of the petitioner. Aggrieved thereby, the petitioner approached this Court in Criminal Petition No.12648/2023, wherein this Court, by taking a lenient view, granted one final opportunity to the petitioner to cross-examine the complainant on 03.01.2024, subject to payment of costs. It was further made explicit that if any further adjournment was sought on the said date, the petitioner would forfeit her right to cross-examine the complainant.



26. While this Court had thus permitted the petitioner to cross-examine the complainant on 03.01.2024, we are now in the latter part of 2025, and it is evident that the petitioner has continued to delay the proceedings. The filing of the present application under Section 91 of the Cr.P.C. appears to be yet another attempt to stall the trial rather than to genuinely aid her defence. This crucial aspect cannot be overlooked, and this Court is constrained to hold that the petitioner has virtually stalled the progress of the proceedings by resorting to dilatory tactics under the guise of seeking production of CDRs.

27. As stated supra, the real question which arises for consideration in the trial is whether the various Facebook posts made by the petitioner, containing imputations on the complainant's official conduct, alleged personal relationship, and attributing responsibility for the death of an IPS officer, are defamatory within the meaning of Section 499 IPC. In that light, this Court is of the



considered opinion that the production of CDRs of the complainant is wholly irrelevant and unnecessary. Accordingly, the learned Magistrate was justified in rejecting the application filed under Section 91 Cr.P.C., and this Court finds no infirmity in the impugned order warranting interference.

28. Accordingly, petition is ***dismissed***.

**SD/-**  
**(SACHIN SHANKAR MAGADUM)**  
**JUDGE**

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List No.: 3 Sl No.: 3